



SEP 20 2005

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JC03 Rec'd PCT/PTO 20 SEP 2005

Attorney Docket No. 566/42764  
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Erich FUDERER et al.

U.S. Serial No.: 10/510,038

Art Unit: Not yet assigned

Filed: October 1, 2004

Examiner: Not yet assigned

For: BRAKE APPLICATION DEVICE COMPRISING AN ELECTRICALLY  
ACTUATED WEAR ADJUSTER

**SUBMISSION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371**

Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Missing Requirements mailed June 20, 2005:

I. Attached hereto please find:

1. The executed Declaration and Power of Attorney (8 pages).
2. A copy of the Notification of Missing Requirements.
3. A check in the amount of \$130.00 for filing the Declaration.

II. Applicants assert and submit the following:

1. The Notification of Missing Requirements has a printed mailing date of June

09/23/2005 LLANDGRA 00000052 10510038

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20, 2005. 130.00 0P

2. The Notification that was supposedly mailed on June 20, 2005 has never been received at the DC address of Barnes & Thornburg LLP ("B& T").

3. Patent Assistant/Docketing Clerk Vanessa Robertson (of the DC Office of "B & T") discovered the fact that a Notification was supposedly mailed when the USPTO records were viewed on the USPTO PAIR website on September 8, 2005. Ms.

Robertson was able to view the fact that a Notification of Missing Requirements was

supposedly mailed but could not print the Notification of Missing Requirements.

Upon Ms. Robertson's request, the document was faxed to Ms. Robertson on September 8, 2005 by the Office of PCT Legal Administration.

4. Since the Notification of Missing Requirements dated June 20, 2005 was only received on September 8, 2005, Applicants were obviously unable to respond by the August 20, 2005 due date.

5. A Declaration from Vanessa Robertson, Patent Assistant/Docketing Clerk at "B & T" is enclosed, explaining her role in this matter.

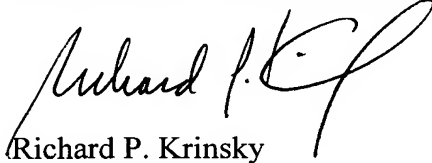
III. Applicants respectfully request that in light of the above facts and the attached Declaration, that this submission be considered a timely Response to the Notification of Missing Requirements, mailed June 20, 2005.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response and shortages in other fees be charged, or any overpayment in fees be credited, to the Deposit Account of Barnes & Thornburg LLP, Account No. 02-1010 (566/42764).

Respectfully submitted,

BARNES & THORNBURG LLP

BARNES & Thornburg LLP Customer No.:  
**23646**  
U.S. PATENT AND TRADEMARK OFFICE

  
Richard P. Krinsky  
Reg. No. 47,720  
(202) 289-1313

Enclosures: Declaration and Power of Attorney (8 pages)  
Copy of Notification of Missing Requirements  
Check in the Amount of \$130.0  
Declaration of Vanessa Robertson



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/510,038	Erich Fuderer	566/42764

23646  
BARNES & THORNBURG  
750-17TH STREET NW  
SUITE 900  
WASHINGTON, DC 20006

INTERNATIONAL APPLICATION NO.	
PCT/EP03/03315	
I.A. FILING DATE	PRIORITY DATE
03/31/2003	04/03/2002

CONFIRMATION NO. 4655  
371 FORMALITIES LETTER



\*OC000000016317442\*

Date Mailed: 06/20/2005

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 10/01/2004
- English Translation of the IA filed on 10/01/2004
- Copy of the International Search Report filed on 10/01/2004
- Copy of IPE Report filed on 10/01/2004
- Copy of Annexes to the IPE filed on 10/01/2004
- Preliminary Amendments filed on 10/01/2004
- Request for Immediate Examination filed on 10/01/2004
- U.S. Basic National Fees filed on 10/01/2004
- Priority Documents filed on 10/01/2004

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- \$130 Surcharge for providing the oath or declaration later than 30 months from the priority date (37 CFR 1.492(e)) is required.

**SUMMARY OF FEES DUE:**

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Late oath or declaration Surcharge.

Additionally the following defects have been observed:

- The translations of Annexes are canceled since the translations were not submitted prior to 30 months from the priority date.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

SHAKEEL AHMED

Telephone: (703) 308-9140 EXT 208

**PART 2 - OFFICE COPY**

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/510,038	PCT/EP03/03315	566/42764

FORM PCT/DO/EO/905 (371 Formalities Notice)

Attorney Docket No. 566/42764  
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Erich FUDERER et al.

U.S. Serial No.: 10/510,038 Art Unit: Not yet assigned

Filed: October 1, 2004 Examiner: Not yet assigned

For: BRAKE APPLICATION DEVICE COMPRISING AN ELECTRICALLY  
ACTUATED WEAR ADJUSTER

**DECLARATION OF VANESSA ROBERTSON**

I, Vanessa Robertson, hereby declare as follows:

1. I am employed as the Patent Assistant/Docketing Clerk in the DC office of Barnes & Thornburg LLP.
2. I am responsible for docketing all of the "Patent" mail that is received from the USPTO at the DC office of Barnes & Thornburg LLP, 750 17<sup>th</sup> Street, NW, Washington, DC 20006.
3. A search of our electronic docketing system does not show a Notification of Missing Requirements with a mail date of June 20, 2005 for Client-Matter No. 566-42764, U.S. Serial Number 10/510,038, as being received by mail in our office. (see Attachment to Declaration)
4. I declare that to the best of my knowledge and belief, I have never seen the Notification of Missing Requirements having a mail date of June 20, 2005 for Client-Matter No. 566-42764, and after a survey of the other staff members and patent attorneys at the DC office, none of them has ever seen this Notification of Missing Requirements.

Attorney Docket No. 566/42764  
PATENT

The undersigned declares further that all statements made herein are, on information and belief, to be true; and further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any patent issuing thereon.

September 20, 2005  
Date

Vanessa Robertson  
Vanessa Robertson

## Attachment

Actions Received At Barnes & Thornburg LLP  
From the U.S. Patent and Trademark Office  
Having A Mail Date of June 20, 2005

9/20/2005

Client-Matter	Action Type	Mail Date	Status	Date Created
34938-73184	US-OFFICE ACTION (3 MONTH)	20-Jun-2005	Pending	24-Jun-2005
35457-94892	US-OFFICE ACTION (3 MONTH)	20-Jun-2005	Pending	23-Jun-2005
566-42765	US-MISSING PARTS 2MO	20-Jun-2005	Pending	21-Jun-2005
3220-97650	US-OFFICE ACTION (3 MONTH)	20-Jun-2005	Pending	23-Jun-2005
6398-78477	US-OFFICE ACTION (3 MONTH)	20-Jun-2005	Pending	10-Aug-2005